Opelika Welding, Machine and Supply, Inc. *and* International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers, and Helpers, AFL–CIO. Case 10–CA–24392

August 9, 1991

DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS CRACRAFT AND DEVANEY

On January 2, 1991,[1] Administrative Law Judge Lawrence W. Cullen issued the attached decision. The Respondent filed exceptions and a supporting brief, and the General Counsel and the Charging Party filed answering briefs in support of the judge's decision.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings,[2] and conclusions, for the reasons stated below, and to adopt the recommended Order.

We agree with the judge's finding, for the reasons he stated, that the General Counsel established a prima facie case, that the Respondent transferred and discharged employee Peggy Martin because of her activities on behalf of the Union, including becoming a union steward.[3] We also agree that the Respondent failed to make out its defenses that either its discharge of Martin was prompted solely by her carelessness in operating a press on April 21 or that it would have discharged her for that incident, even absent her union activities. In particular, we reject the Respondent's contention that its discharges of three other employees for jamming a press prove its case, because we do not agree that the circumstances of those discharges were comparable to those of Martin's discharge.[4]

One employee discharged for jamming the press received at least one written warning about his carelessness and had operated the press for more than a year and a half when terminated. Martin had operated the press for only 2 hours when it jammed. Another employee, Lee, was discharged for ''careless'' operation of the press that resulted in $605 in damage. However, the Respondent failed to present evidence concerning Lee's training and the length of time he was assigned to the press. The third example offered by the Respondent was an employee who was terminated for jamming the press after Martin's termination, and therefore is of little probative value.

It is also significant that, unlike other employees who committed careless errors, Martin was ''set up'' to commit just such an error. In other cases in which the Board has upheld an employer's right to terminate an employee despite the presence of union animus, two other criteria were present. Not only had all other known similar offenses resulted in termination, but the offenses were independently committed, without any contributing activity by the employer.[5] In *Stoutco, Inc.*, 218 NLRB 645 (1975), the employer followed an employee-driver with the ''avowed purpose of trapping'' him in the illegal use of a C.B. radio. The Board adopted the judge's findings that although the C.B. trap was ''motivated by discriminatory considerations,'' the employer nevertheless lawfully discharged the employee after observing him pick up hitchhikers. The judge in that case reasoned that even if ''it is fair to assume that the Respondent entertained a desire to get rid of [the employee], whose union activities it resented, and was pleased to have an opportunity present itself for doing so . . . that alone is not enough to establish that the discharge was in violation of Section 8(a)(3).'' Id. at 651 (quoting from *Berland Paint City*, 199 NLRB 927 (1972)). However, the employer may not create that opportunity.

In the instant case, Martin's path to her ultimate discharge began with a transfer for which the reasons given to her were at variance with those the Respondent gave at the hearing. This was followed by other transfers, warnings, and a suspension that the judge found, with ample support in the record, were carried

[1] The judge's decision is erroneously dated 1990.

[2] The Respondent has excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), enfd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the findings.

[3] In agreeing with the judge's finding that the General Counsel established a prima facie case that Martin was discriminatorily transferred, disciplined, and discharged, we rely on the evidence that: (1) Plant Manager and Vice President of Operations Pitts asked a supervisor and a leadperson to report on the union activities of employees; (2) Martin held union meetings in her home; (3) the Respondent was aware that Martin wore a union steward button openly on her clothes and work apron unlike the other two stewards who concealed their buttons; (4) Pitts transferred Martin the same day she first wore her steward button; (5) Martin was transferred, against her wishes into jobs traditionally more difficult for women to perform, and given less than the normal time period in which to achieve required production levels; and (6) when asked if the Respondent was trying to get rid of Martin, leadperson Ruff said, ''I'm not allowed to say.'' Thus, unlike *Salvation Army*, 293 NLRB 944 (1989), on which the Respondent relies, Martin was the most evident union supporter, the Respondent was clearly aware of her union activities and comparatively brazen show of support, and the evidence suggests that a plan was afoot to force her out. These facts and the timing of the transfers and subsequent warnings and discharge support a prima facie showing that Martin's firing was motivated by her union activities.

[4] The Respondent relies on the Board's decision in *Animal Humane Society*, 287 NLRB 50 (1987), to support its position. In that case, the Board found, contrary to the judge, that the employer would have discharged union activist Sztubinski based on his theft of money alone, noting that another employee had been discharged for theft and no other employees known to have engaged in similar conduct were kept in the employer's employ. There was, moreover, no showing that the circumstances of Sztubinski's misconduct were significantly different from those of the other employee whom the employer had fired for theft. The present case does not involve criminal conduct, as did *Animal Humane Society*, and, as shown infra, prior discharges for jamming a press did not take place under circumstances comparable to those of Martin.

[5] This is another factor that distinguishes *Animal Humane Society*, supra, from this case.

out for discriminatory reasons. She was finally transferred to the No. 2 press and required to operate it without having been trained in accordance with the operations manual. The Respondent, having deliberately placed her in a position in which she was likely to make a mistake, cannot now claim that Martin's failure to clear the press on April 21 was a fortuitous act committed independent of its discriminatory efforts to get rid of her.

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge and orders that the Respondent, Opelika Welding, Machine and Supply, Inc., Opelika, Alabama, its officers, agents, successors, and assigns, shall take the action set forth in the Order.

Victor A. McLemore, Esq. and *Keith R. Jewell, Esq.*, for the General Counsel.
Chris Mitchell, Esq. (Constangy, Brooks & Smith), of Birmingham, Alabama, for the Respondent.
James R. Waers, Esq. (Blake & Uhlig), of Kansas City, Kansas, for the Charging Party.

DECISION

STATEMENT OF THE CASE

LAWRENCE W. CULLEN, Administrative Law Judge. This case was heard before me on January 31, and February 1, 1990, at Birmingham, Alabama. The hearing was held pursuant to a complaint issued by the Regional Director for Region 10 of the National Labor Relations Board (the Board) on October 31, 1989. The complaint is based on a charge filed by the International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers, AFL–CIO (the Union) on September 26, 1989. The complaint alleges that the Respondent, Opelika Welding, Machine and Supply, Inc. (the Respondent) violated Section 8(a)(3) and (1) of the National Labor Relations Act (the Act) by on or about March 31 and April 21, 1989, changing the work assignments of its employee Peggy Martin, on or about March 28 and April 6, 1989, issuing a verbal warning to Martin, on or about April 23, 1989, suspending Martin, and on or about April 27, 1989, discharging and thereafter failing and refusing to reinstate Martin because of her membership in and activities on behalf of the Union, and because she engaged in protected concerted activity with other employees for the purposes of collective bargaining and other mutual aid and protection. Respondent has by its answer filed on November 9, 1989, denied the commission of any violations of the Act.

Upon the entire record in this proceeding, including my observations of the witnesses who testified, and after due consideration of the briefs filed by the General Counsel and counsel for the Respondent, I make the following

FINDINGS OF FACT

I. JURISDICTION

A. *The Business of Respondent*

The complaint alleges, Respondent admits and I find that at all times material Respondent is and has been an Alabama corporation, with an office and place of business located at its Alabama facility, where it is engaged in job shop steel fabrication, and that during the calendar year preceding the filing of the complaint, Respondent sold and shipped from its Opelika, Alabama facility goods valued in excess of $50,000 directly to customers located outside the State of Alabama and that Respondent is and has been at all times material herein a labor organization within the meaning of Section 2(6) and (7) of the Act.

B. *The Labor Organization*

The complaint alleges, the Respondent admits, and I find that at all times material the Union is, and has been a labor organization within the meaning of Section 2(5) of the Act.

II. FACTS

The Respondent operates a job shop where it engages in steel fabrication of various products in order to fill specific orders for its customers (i.e., G.E., Snapper Lawnmowers). Peggy Martin was initially employed as a temporary employee by Respondent in August 1987 and became a permanent employee in October 1987. Throughout most of her tenure, Martin had worked as a welder on the G.E. line which includes four welders who sit side by side and across from each other. During her tenure as an employee, Martin had been engaged in several arguments with other employees including Rosa Varro and James McCurdy with whom she worked as a welder on the G.E. line and other employees. Martin attributed much of her problems with male employees to unwanted sexual solicitations directed by them to Martin for Martin to go out with them or engage in sexual relationships with them. Martin's testimony in this regard was supported by former employee Rosa Varro, the leadperson on the G.E. line until she quit her employment in August 1989, who testified that several of the male employees were pestering Martin to go out with them. I credit Martin's testimony in this regard and Varro's corroborating testimony. Respondent introduced testimony through witness Robert Smith that after the discharge of Martin, employee Rosa Varro told Smith that she was going to help Peggy Martin ''fuck the Company'' and thus contends that Rosa Varro was an unreliable witness whose testimony should not be credited. Varro denied making this statement. However, even assuming she did make the statement I do not find that it necessarily follows that this statement justifies a conclusion that Rosa Varro was prepared to lie to assist Martin in this proceeding. Rather, I found Rosa Varro to be a forthright witness who testified in specific detail and I credit her testimony as hereinafter set out. Rosa Varro and her husband Joe Varro quit their employment wih Respondent in August 1989 in part because of dissatisfaction with their pay.

In 1987 the Union commenced an organizational campaign among Respondent's employees and an election was held on September 2, 1987, pursuant to a stipulated election agreement dated June 17, 1987. The results of this election were set aside and a second election was held on January 15, 1988, with a result of 37 votes for the Union and 34 against representation with 3 challenged ballots. The Union was certified by the Board on December 22, 1988, following the Board's overruling the Respondent's challenges to the 3 ballots. Rosa Varro testified that she and fellow employee Dale Thompson who served as a supervisor were called into Plant Manager and Operations Vice President Tommy Pitts' office prior to the January 1987 election and asked by Pitts to report to him any employees who were in favor of the Union and told them they would not be forgotten in return. Thompson also took up a petition among the employees to obtain an indication as to who did not support the Union and sent it to the Union. Varro testified she reported information concerning the union activities of employees to Supervisor Lee Owens who in turn reported them to Pitts who is the father-in-law of Owens. Martin testified that she was active on behalf of the Union and had meetings in support of the Union at her home. On March 21, 1989, she and two other employees, Lee Morris and Richard Tate, were appointed as union stewards and given buttons designating them as union stewards. Martin testified she openly wore her union steward button to work on the morning of March 22, 1989, while Morris and Tate concealed their buttons under their sweaters and that Rosa Varro asked her ''what the fuck is a union steward.'' Varro acknowledged having asked this of Martin but denied that she had used the expletive. I credit Martin in this regard. Rosa Varro also testified that she immediately reported to Supervisor Lee Owens that Peggy Martin was wearing a union button and that Owens immediately called Pitts on the phone and informed him of this. Owens initially denied at the hearing that he had done this but subsequently admitted that it was possible he had informed Pitts that Martin was wearing a union steward button. Owens also testified concerning an argument that had occurred between Martin and fellow welder Jarvis McCurdy the previous day wherein Martin contended that McCurdy was slowing her production as he was not passing parts from his station to hers in a timely manner. Owens testified that he instructed McCurdy and Martin to change places on the line in order that each could work at the others station on the line in order to learn the problems of the other at their respective stations on the line. When Owens observed Martin and McCurdy the next morning he noted that they were each at their original places rather than at each other's station as he had directed them the night before. When he inquired concerning this, Martin told him that she and McCurdy had worked out their differences. He again ordered them to change places as he had the day prior. He also reported this to Pitts as well as Martin's complaints about her welding gun. According to Owens, Pitts then asked him to bring Martin to the office where according to Pitts, Martin, and Owens, Pitts told Martin that the Respondent's owner had ordered that the employees be cross-trained several years ago and that he was moving Martin to the Snapper department to weld handlebars. Pitts testified that Martin asked why she was being sent to this department and he replied, ''Well, Peggy why not?''

Martin was then assigned to weld handlebars on March 22, 1989, where she did not make production after a few days and received a warning on March 28, 1989, for not making production whereupon she thereafter made production. Joseph Varro, an employee in the Snapper department, testified he asked Foreman David Ruff why Martin had been assigned to this task and asked whether the Respondent was trying to get rid of her and Ruff replied ''I'm not allowed to say.'' Ruff denied making this statement. I credit Joseph Varro's testimony and found him to be a truthful witness. Joseph Varro also testified only one other woman had been assigned to this job previously and she had been taken off of it when she was unable to do the work. On March 31, 1989, Martin was reassigned to welding grass catchers when there were no more handlebars to weld, a job that Joseph Varro testified no woman had ever been assigned to previously and that only a few men could perform up to the desired production level. Martin failed to make production and was issued a final warning on April 6, 1989. She subsequently continued to fail to meet production and was reassigned to operate a press in another department for several days. Subsequently on April 21, she was reassigned to another press known as press no. 2 wherein she was told by Foreman Ruff how to operate the machine but was not physically shown by him how to do it as required by the operations manual. On April 23, 1989, a part became lodged in the top part of the press and Martin failed to remove it causing the machine to jam and requiring the services of at least two of Respondent's repairmen resulting in several hours of down production time. Martin was suspended on that date pending a management decision and told to return on April 27, 1989, at which time she was discharged for jamming the press.

The Respondent contends that the initial transfer of Martin has not been alleged as a violation in the complaint and is therefore not an element of a violation in this case and further contends that the various transfers of Martin were based solely on the business decision to cross-train her and in part on her inability to get along with other employees. Respondent concedes it was aware of Martin's status as a union steward but contends that it was also aware of two other employees who served as union stewards who were not disciplined. Respondent contends it follows progressive discipline, but concedes that its follow through in this regard is haphazard at best and that no copies are given to employees of various infractions for which they are given written warnings but contends that in all instances wherein employees have jammed the press, they have been discharged. One of Respondent's repairmen, Dan Lora, initially testified he was aware of two instances of a press being jammed for which the employee was not disciplined. He subsequently testified there was only one known to him and that he was able to quickly fix the machine and did not report the incident to management.

B. *Analysis*

I find that the General Counsel has established a prima facie case that the transfers of Martin to more onerous jobs, the issuance of verbal warnings to Martin, the suspension of Martin, and the ultimate discharge of Martin were all motivated by Respondent's animus toward Martin because of her participation in union activities. Initially, I credit Rosa Varro's testimony that she and employee Supervisor Dale

Thompson were asked to report the union sentiments and activities of other employees to Respondent's management notwithstanding the denials of Thompson and Pitts and that when she reported to Supervisor Lee Owens on March 22, 1989, that Martin was a union steward, Martin was immediately transferred to the Snapper department to weld handlebars. I also credit the testimony of Joseph Varro that the welding of grasscatchers in the Snapper department was a difficult assignment not previously assigned to women and that other employees including Varro, himself, had had difficulty in meeting the desired quota or ''base'' on this job. I further find that the assignments by management of Martin to other tasks were motivated in part by Respondent's animus toward the Union and Martin's participation as a union steward. I do not credit Respondent Plant Manager Pitts' testimony that the change was prompted by Respondent's desire to cross-train employees. Rather it appears that the transfer from the G.E. line to other tasks coming immediately after Pitts found out that Martin was a union steward was the result of Pitts' animus toward the Union. I do not credit Pitts' or Owens' version that the move was prompted by Martin's dispute with other members of the G.E. line as that matter had been resolved by Martin and the other employees involved and when Pitts transferred Martin from the G.E. line, he did not mention this dispute but rather premised the transfer on the alleged need to cross-train employees on other jobs. ''The Board . . . has traditionally held that, given full litigation of an event or circumstances, a variance between the complaint and the proof is not fatal and that a judge's decision may address the conduct litigated.'' *Consolidated Casinos Corp.*, 266 NLRB 988, 992–993 (1983). Recently in *Lear Siegler, Inc.*, 295 NLRB 857 (1989), the Board held the General Counsel had put the employer on sufficient notice of an issue concerning unlawfully terminated operations, by stating in opening argument that a plant restoration order was being sought despite the lack of an allegation concerning unlawful plant closure in the complaint. In the instant case the General Counsel specifically contended in his opening statement that the initial transfer of March 22 was discriminatorily motivated and I would find based on this and the evidence presented that this issue was fully litigated and that the March 22 transfer to the Snapper department was a violation of Section 8(a)(3) and (1) of the Act. However, I note that the charge in this case which originally alleged the March 22 transfer as a violation was not filed until September 26, 1989, which is beyond the 10(b) 6-month limitation. This failure to file the charge within the 10(b) period was not mentioned by the General Counsel at the hearing and it would be grossly unfair to require the Respondent to assert an affirmative defense of the 10(b) period at trial. I note as discussed supra that in his brief the Respondent alludes to the failure of the General Counsel to allege the March 22 transfer as an allegation in the complaint. Thus, I find that although a violation would properly be found on the merits with regard to the March 22 transfer, that the failure to file the charge within the 10(b) period precludes the finding of a violation in this case for the March 22 transfer. However, it is well settled that events outside the 10(b) period may be utilized to shed light on events which occur in the 10(b) period and I find that the March 22 transfer is evidence of Respondent's knowledge of union activity on the part of Martin, and animus toward her as a result of this union activity and the commencement of a pattern of conduct devised to culminate in her termination in order to rid itself of a known union adherent. I find that the subsequent transfers and the warnings, suspension, and discharge were motivated at least in part by Respondent's animus toward the Union and its desire to retaliate against Martin because of her support of the Union. I find the evidence supports an inference that the transfers and warnings were designed to build a record of discipline against Martin.

I have considered Respondent's contentions regarding the alleged offenses of Martin in failing to make production and ultimately in causing the press to jam by failing to remove an item lodged in the top of the press prior to operating it again, thus occasioning the jamming of the press with consequent down time of the machine and several hours of work by repairmen of Respondent to repair it. I have also considered the minimal amount of instruction given to Martin according to her testimony which I credit and what appears to be an inconsistent practice of disciplining employees for similar offenses and I am not convinced that the transfers, warnings, suspension, and discharge would have occurred in the absence of Respondent's unlawful motivation.

In *Wright Line*, 251 NLRB 1083 (1980), enfd. on other grounds 662 F.2d 899 (1st Cir. 1981), cert. denied 455 U.S. 989 (1982), the Board held that once the General Counsel makes a prima facie showing that the protected conduct was a motivating factor in the action taken against the employee, the burden then shifts to the employer to demonstrate that it would have taken the action even in the absence of the protected conduct. It is not sufficient for the employer to merely show that it also had a legitimate reason for the action, but the employer must persuade by a preponderance of the evidence that the action would have taken place even in the absence of the protected conduct. I find that the General Counsel has established that Respondent's actions in transferring Martin within the Snapper department and subsequently to the presses and the warnings, suspension, and discharge were motivated in part because of Respondent's animus toward the Union and her status as a union steward. I have taken note of evidence presented by Respondent particularly through its supervisors, David Ruff and Pitts, that Martin appeared to be recalcitrant in attempting to make her base and thus leading to the warnings issued to her and that in the instances known to management, the Respondent has discharged employees for jamming a press by failing to remove a die or part and placing another item in it. I find, however, that Respondent's intent was not to cross-train Martin but rather to remove her from the G.E. line because of her union activities and to build a disciplinary record against her. I have also considered Respondent's contentions that Martin was argumentative but I do not find this was the true reason for her transfers, particularly in view of Respondent's declared statement to her that the purpose of the move was to cross-train her. I accordingly find that the Respondent has failed to rebut the prima facie case established by the General Counsel by the preponderance of the evidence and has failed to persuasively demonstrate that Martin would have been transferred, warned, suspended, and discharged in the absence of her protected concerted activities in serving as a steward on behalf of the Union. *Roure Bertrand Dupont Inc.*, 271 NLRB 443 (1984); *NLRB v. Transportation Management Corp.*, 462 U.S. 393

(1983), 256 NLRB 101 (1981), enfd. 674 F.2d 130 (1st Cir. 1982).

CONCLUSIONS OF LAW

1. Respondent Opelika Welding, Machine and Supply Inc., is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers, AFL–CIO is a labor organization within the meaning of Section 2(5) of the Act.

3. Respondent violated Section 8(a)(3) and (1) of the Act by its transfers to more onerous work, warnings, suspension, and discharge of its employee, Peggy Martin, because of her engagement in protected concerted activities.

4. The above unfair labor practices in connection with the business of Respondent as set out above have the effect of burdening commerce and are unfair labor practices within the meaning of Section 2(6) and (7) of the Act.

THE REMEDY

Having found that the Respondent has violated the Act, it shall be ordered to cease and desist therefrom, and to take certain affirmative actions, including the posting of an appropriate notice, designed to effectuate the purposes of the Act. Respondent shall rescind its unlawful transfer to more onerous work of Peggy Martin and its unlawful warnings, suspension, and discharge of her and offer full reinstatement to its employee, Peggy Martin, to her former position or to a substantially equivalent position if her former position no longer exists and make her whole for all loss of pay and benefits, including seniority and other rights and privileges sustained by her as a result of Respondent's unlawful discrimination against her. Backpay and benefits shall be with interest, as computed in the manner prescribed in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), with interest as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).[1] Respondent shall also expunge its records of all references to the unlawful actions taken against Martin and inform her in writing that this has been done and that such unlawful actions will not be used against her in any manner in the future. Respondent shall also preserve all necessary records for computing backpay and benefits and make them available to the Regional Director for Region 10 or his representatives.

On these findings of fact and conclusions of law and on the entire record, I hereby issue the following recommended[2]

ORDER

The Respondent, Opelika Welding, Machine and Supply, Inc., Opelika, Alabama, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Transferring its employees to more onerous positions, warning, suspending, or discharging its employees because of their engagement in protected concerted activities on behalf of the Union.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Rescind its unlawful transfers, warnings, suspension, and discharge of its employee, Peggy Martin, and offer her full reinstatement to her former position or to a substantially equivalent position if her former position no longer exists and make her whole for all loss of wages and benefits with interest as set out in the remedy section of this decision and restore all rights and privileges including seniority to her.

(b) Remove from its files any references to the unlawful actions taken against Peggy Martin and inform her in writing that this has been done and that these unlawful acts will not be used against her in any manner.

(c) Preserve and, on request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order.

(d) Post at its facility in Opelika, Alabama, copies of the attached notice marked ''Appendix.''[3] Copies of said notice, on forms provided by the Regional Director for Region 10, after being duly signed by Respondent's authorized representative, shall be posted by Respondent at its facility in Opelika, Alabama, immediately upon receipt thereof and be maintained by it for 60 consecutive days thereafter, in conspicuous places where notices to employees are customarily posted. Respondent shall take reasonable steps to ensure that said notices are not altered, defaced, or covered by any other material.

(e) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

[1] Under *New Horizons*, interest is computed at the ''short term Federal rate'' for the under payment of taxes as set out in the 1986 amendment to 26 U.S.C. § 6621.

[2] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

[3] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading ''Posted by Order of the National Labor Relations Board'' shall read ''Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board.''

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights.

To organize

To form, join, or assist any union

To bargain collectively through representatives of their own choice.

To act together for other mutual aid or protection

To choose not to engage in any of these protected concerted activities.

WE WILL NOT transfer to more onerous work, warn, suspend, or discharge employees because of their support of the International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers, AFL–CIO or engagement in other protected concerted activities.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of the rights guaranteed them by Section 7 of the Act.

WE WILL rescind our unlawful transfers to more onerous work of Peggy Martin and our unlawful warnings, suspension and discharge of Peggy Martin and offer her full reinstatement to her former position or to a substantially equivalent position if this position no longer exists and will make her whole for all loss of wages and benefits sustained by her because of our unlawful conduct, with interest, and will restore to her all rights and privileges previously enjoyed.

WE WILL remove from our files any references to the unlawful transfers, warnings, suspension, and discharge of Peggy Martin and will inform her in writing that this has been done and that said unlawful conduct will not be used against her in any manner because of her support of the Union or her engagement in other protected concerted activities.

Our employees have the right to join and support the International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers, AFL-CIO or to refrain from such activities.

OPELIKA WELDING, MACHINE AND SUPPLY, INC.